

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION

George Stewart, on behalf of himself	§	
and others similarly situated,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 5:23-cv-00007-H
	§	
Texas Tech University Health	§	
Sciences Center, et al.	§	
	§	
Defendants.	§	

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**DEFENDANTS' ANSWER TO PLAINTIFF'S  
FIRST AMENDED CLASS-ACTION COMPLAINT**

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TO THE HONORABLE U.S. DISTRICT JUDGE JAMES WESLEY HENDRIX:

Defendants Texas Tech University Health Sciences Center ("TTUHSC"), Lori Rice-Spearman, John C. DeToledo, Felix Morales, Louis Perez, and Monica Galindo (collectively, "Defendants") respectfully file this Answer to Plaintiff's First Amended Class-Action Complaint (the "Amended Complaint"). Defendants also demand a trial by jury.

**ANSWER TO INTRODUCTORY PARAGRAPH**

No response is required to Plaintiff's unnumbered introductory statement on pages 1–2 of the Amended Complaint, summarizing the nature of the lawsuit, because it does not comply with Fed. R. Civ. P. 10(b). Because this section does not contain allegations in numbered paragraphs, each of which is limited to "a single set of circumstances," Fed. R. Civ. P. 10(b), responding to any allegations contained in

this section is not required. To the extent this introductory section purports to contain any factual allegations, Defendants refer Plaintiff to their specific admissions and denials of those factual allegations in subsequent numbered paragraphs.

### **ANSWER TO JURISDICTION AND VENUE**

1. Defendants deny the allegations in paragraph 1.
2. Defendants admit the allegations in paragraph 2.

### **ANSWER TO PARTIES**

3. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 3.
4. Defendants admit the allegations in paragraph 4.
5. Defendants admit the allegations in paragraph 5.
6. Defendants admit the allegations in paragraph 6.
7. Defendants admit the allegations in paragraph 7.
8. Defendants admit the allegations in paragraph 8.
9. Defendants admit the allegations in paragraph 9.

### **ANSWER TO STATEMENT OF FACTS**

10. Defendants deny the allegations in paragraph 10 to the extent they relate to Defendants. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 10 to the extent they relate to other medical schools or universities.

11. Paragraph 11 contains legal arguments to which no response is required. Defendants deny that they have violated or are violating Title VI or any other law.

12. Paragraph 12 contains legal arguments to which no response is required. Defendants deny that they have violated or are violating 42 U.S.C. § 1981 or any other law.

13. Defendants admit that Plaintiff applied to TTUHSC's School of Medicine. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 13.

14. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 14.

15. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 15.

16. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 16.

#### **ANSWER TO FACTS RELATED TO STANDING**

17. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 17.

18. Defendants deny the allegations in paragraph 18.

19. Defendants deny the allegations in paragraph 19.

**ANSWER TO CLASS-ACTION ALLEGATIONS**

20. Paragraph 20 contains legal arguments to which no response is required. Defendants deny that a class action is proper.

21. Defendants deny the allegations in paragraph 21.

22. Defendants deny the allegations in paragraph 22.

23. Defendants deny the allegations in paragraph 23.

24. Defendants deny the allegations in paragraph 24.

25. Defendants deny the allegations in paragraph 25.

26. Defendants deny the allegations in paragraph 26.

**ANSWER TO FIRST CLAIM FOR RELIEF—  
VIOLATIONS OF TITLE VI**

27. Defendants deny the allegations in paragraph 27.

28. Defendants admit that TTUHSC's School of Medicine is subject to Title VI's requirements.

29. Defendants deny the allegations in paragraph 29.

30. Defendants deny the allegations in paragraph 30.

31. Defendants deny the allegations in paragraph 31.

32. Paragraph 32 contains legal arguments to which no response is required.

33. Paragraph 33 contains legal arguments to which no response is required. To the extent paragraph 33 also contains factual allegations regarding Defendants' actions, Defendants deny the allegations.

34. Paragraph 34 contains legal arguments to which no response is required.

**ANSWER TO SECOND CLAIM FOR RELIEF—  
VIOLATIONS OF 42 U.S.C. § 1981**

35. Paragraph 35 contains legal arguments to which no response is required.

36. Paragraph 36 contains legal arguments to which no response is required.

37. Defendants deny the allegations in paragraph 37.

38. Defendants deny the allegations in paragraph 38.

39. Defendants deny the allegations in paragraph 39.

40. Defendants admit that sovereign immunity is not abrogated or waived for state institutions, like TTUHSC, under 42 U.S.C. § 1981. Defendants deny the remaining allegations in paragraph 40.

41. Paragraph 41 contains legal arguments to which no response is required.

42. Paragraph 42 contains legal arguments to which no response is required. To the extent paragraph 42 also contains factual allegations regarding Defendants' actions, Defendants deny the allegations.

43. Paragraph 43 contains legal arguments to which no response is required.

**ANSWER TO THIRD CLAIM FOR RELIEF—  
EQUAL PROTECTION CLAUSE**

44. Paragraph 44 contains legal arguments to which no response is required.

45. Paragraph 45 contains legal arguments to which no response is required.

46. Defendants deny the allegations in paragraph 46.

47. Defendants deny the allegations in paragraph 47.

48. Paragraph 48 contains legal arguments to which no response is required. To the extent paragraph 48 also contains factual allegations regarding Defendants' actions, Defendants deny the allegations.

49. Paragraph 49 contains legal arguments to which no response is required. To the extent paragraph 49 also contains factual allegations regarding Defendants' actions, Defendants deny the allegations.

50. Defendants deny the allegations in paragraph 50.

51. Defendants deny the allegations in paragraph 51.

52. Defendants admit that 42 U.S.C. § 1983 does not authorize suit against states or state institutions, like TTUHSC. Defendants deny the remaining allegations in paragraph 52.

**ANSWER TO DEMAND FOR RELIEF**

53. Defendants deny the allegations in paragraph 53, including sub-parts (a)–(j). Defendants further deny that they are liable to Plaintiff for any relief.

## DEFENSES

Defendants assert the following affirmative and other defenses to which they may be entitled:

1. Plaintiff's claims, in whole or in part, are barred by sovereign immunity from suit and/or liability.
2. Plaintiff's claims, in whole or in part, fail for lack of standing.
3. Plaintiff's claims, in whole or in part, fail because Plaintiff has failed to state a claim upon which relief may be granted.
4. Any actions taken against Plaintiff by Defendants were based on legitimate, non-discriminatory reasons and were taken without discriminatory animus.
5. Any actions taken against Plaintiff by Defendants were done in good faith and without negligence, malice, willfulness, wantonness, recklessness, or intent.
6. Defendants would have taken the same actions with respect to Plaintiff regardless of Plaintiff's race or color.
7. Plaintiff's own acts or omissions caused or contributed to Plaintiff's injuries, if any.
8. Plaintiff failed to mitigate his damages, if any.
9. Plaintiff's damages, if any, are subject to the applicable damage cap(s).
10. Plaintiff's claims are subject to all applicable statutory limitations, including the exemption of a government, government agency, political subdivision, or other arm of the state from punitive damages.

11. Defendants reserve the right to raise additional affirmative and other defenses as they become apparent in the development of this case.

12. Defendants deny all allegations in the Amended Complaint that have not been specifically admitted.

### **JURY DEMAND**

Defendants demand a trial by jury. *See* Fed. R. Civ. P. 38.

### **CONCLUSION & PRAYER**

Defendants request this Court to enter judgment for Defendants and against Plaintiff, to dismiss Plaintiff's claims with prejudice, to award Defendants their costs, and to grant Defendants such other relief to which they may be entitled.



Respectfully submitted.

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*/s/ Benjamin S. Walton*

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### **CERTIFICATE OF SERVICE**

I hereby certify that on August 30, 2024, a true and correct copy of this document was electronically filed using the Court's CM/ECF system, which will send notification of such filing to the following counsel of record:

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